

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAVID FINKELSTEIN, *individually and on behalf of all others similarly situated*, :  
Plaintiff, : 24-CV-4056 (JMF)  
-v- : ORDER  
ANDREW FOX et al., :  
Defendants. :  
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JESSE M. FURMAN, United States District Judge:

On August 29, 2024, the Court granted the unopposed motion of the Brooklyn Investor Group — composed of Steven Weill, David Klein, Isaac Broyn and Elliot Abramowitz — to be appointed Lead Plaintiff based on the fact that the Brooklyn Investor Group had the largest financial interest in the relief sought. *See ECF No. 44.* On November 13, 2024, however, two members of Brooklyn Investor Group — Steven Weill and David Klein — filed a notice of voluntary partial dismissal. *See ECF No. 53.* Without Weill and Klein, the Brooklyn Investor Group would not have had the largest financial interest in the relief sought; that title would have gone to Timothy K. Klintworth instead. *See ECF Nos. 37-1, 37-2.* In light of the voluntary dismissal by Weill and Klein, the Court ordered Lead Plaintiff Brooklyn Investor Group to show cause in writing why the Court should not reopen the appointment of Lead Plaintiff and/or substitute Klintworth in its place as Lead Plaintiff; the Court also gave all prior movants an opportunity to respond to the Brooklyn Investor Group’s submission. *See ECF No. 56.*

The Court, having considered the parties' responses to its Order to Show Cause, hereby reopens the appointment of Lead Plaintiff and GRANTS Klintworth's request to be substituted as Lead Plaintiff in place of the Brooklyn Investor Group. *See* ECF No. 60, at 1. “[C]ourts have . . . acknowledged the ability to consider motions to disqualify, remove, withdraw, substitute, and add lead plaintiffs throughout the litigation of a securities class action.” *In re NYSE Specialists Sec. Litig.*, 240 F.R.D. 128, 133 (S.D.N.Y. 2007). And although “the [Private Securities Litigation Reform Act (“PSLRA”)] is silent on the proper procedure for substituting a new lead plaintiff . . . [c]ourts have presumed, in the absence of guidance, that the next ‘most adequate plaintiff’ would be a plaintiff who satisfies the [PSLRA] criteria” for initial lead plaintiff selection. *In re VEON Ltd. Sec. Litig.*, No. 15-CV-8672 (ALC) (OTW), 2022 WL 1284547, at \*3 (S.D.N.Y. Apr. 29, 2022) (cleaned up). The Brooklyn Investor Group acknowledges that Klintworth now possesses the largest financial interest in the relief sought and, on that basis, consents to the Court’s substitution of Klintworth as Lead Plaintiff. *See* ECF No. 59, at 3-4. The substitution of Klintworth as Lead Plaintiff is therefore unopposed.

Accordingly, the Court hereby substitutes Timothy K. Klintworth as Lead Plaintiff and approves the appointment of Bragar Eagel & Squire, P.C. as new Lead Counsel for Lead Plaintiff and the proposed class. No later than **December 12, 2024**, Lead Plaintiff Klintworth shall confer with Defendants and file a proposed Order setting forth the duties and responsibilities of Lead Plaintiff and Lead Counsel, as well as deadlines for the filing of any amended complaint and answer or motion to dismiss. *See, e.g.*, ECF No. 47. The Clerk of Court is directed to update the docket to reflect the substitutions of Lead Plaintiff and Lead Counsel.

SO ORDERED.

Dated: December 5, 2024  
New York, New York



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JESSE M. PURMAN  
United States District Judge